

**§ 122C-54. Exceptions; abuse reports and court proceedings.**

(a) A facility shall disclose confidential information if a court of competent jurisdiction issues an order compelling disclosure.

(a1) **(Effective until October 1, 2019)** Upon a determination by the facility director or his designee that disclosure is in the best interests of the client, a facility may disclose confidential information for purposes of filing a petition for involuntary commitment of a client pursuant to Article 5 of this Chapter or for purposes of filing a petition for the adjudication of incompetency of the client and the appointment of a guardian or an interim guardian under Chapter 35A of the General Statutes.

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(b) If an individual is a defendant in a criminal case and a mental examination of the defendant has been ordered by the court as provided in G.S. 15A-1002, the facility shall send the results or the report of the mental examination to the clerk of court, to the district attorney or prosecuting officer, and to the attorney of record for the defendant as provided in G.S. 15A-1002(d). The report shall contain a treatment recommendation, if any, and an opinion as to whether there is a likelihood that the defendant will gain the capacity to proceed.

(c) **(Effective until October 1, 2019)** Certified copies of written results of examinations by physicians and records in the cases of clients voluntarily admitted or involuntarily committed and facing district court hearings and rehearings pursuant to Article 5 of this Chapter shall be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court. The confidentiality of client information shall be preserved in all matters except those pertaining to the necessity for admission or continued stay in the facility or commitment under review. The relevance of confidential information for which disclosure is sought in a particular case shall be determined by the court with jurisdiction over the matter.

(c) **(Effective October 1, 2019)** When an individual is held at a facility under involuntary commitment or voluntary admission proceedings that require district court hearings or rehearings pursuant to Article 5 of this Chapter, certified copies of written results of examinations, gathered during the course of the current commitment or admission, shall be furnished by the facility to the client's counsel, the attorney representing the State's interest, and the court. Upon request, the facility shall disclose to respondent's counsel, the attorney representing the State's interest, and the court confidential information collected, maintained, or used in attending or treating the respondent during the proceeding for voluntary admission or involuntary commitment. Other medical records shall be furnished only upon court order. The confidentiality of client information shall be preserved in all matters except those pertaining to the necessity for admission or continued stay in the facility or commitment under review.

(d) Any individual seeking confidential information contained in the court files or the court records of a proceeding made pursuant to Article 5 of this Chapter may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the confidential information sought if he finds the order is appropriate under the circumstances and if he finds that it is in the best interest of the individual admitted or committed or of the public to have the information disclosed.

(d1) Repealed by Session Laws 2015-195, s. 11(a), effective January 1, 2016.

(d2) The record of involuntary commitment for inpatient or outpatient mental health treatment or for substance abuse treatment required to be reported to the National Instant Criminal Background Check System (NICS) by G.S. 14-409.43 shall be accessible only by the

sheriff or the sheriff's designee for the purposes of conducting background checks under G.S. 14-404 and shall remain otherwise confidential as provided by this Article.

(e) **(Effective until October 1, 2019)** Upon the request of the legally responsible person or the minor admitted or committed, and after that minor has both been released and reached adulthood, the court records of that minor made in proceedings pursuant to Article 5 of this Chapter may be expunged from the files of the court. The minor and his legally responsible person shall be informed in writing by the court of the right provided by this subsection at the time that the application for admission is filed with the court.

(e) **(Effective October 1, 2019)** Upon the request of the legally responsible person or the minor admitted or committed, and after that minor has both been released and reached adulthood, the court records of that minor made in proceedings pursuant to Article 5 of this Chapter may be expunged from the files of the court. The minor and the minor's legally responsible person shall be informed in writing by the court of the right provided by this subsection at the time that the application for admission is filed with the court.

(f) A State facility and the psychiatric service of the University of North Carolina Hospitals at Chapel Hill may disclose confidential information to staff attorneys of the Attorney General's office whenever the information is necessary to the performance of the statutory responsibilities of the Attorney General's office or to its performance when acting as attorney for a State facility or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(g) **(Effective until October 1, 2019)** A facility may disclose confidential information to an attorney who represents either the facility or an employee of the facility, if such information is relevant to litigation, to the operations of the facility, or to the provision of services by the facility. An employee may discuss confidential information with his attorney or with an attorney representing the facility in which he is employed.

(g) **(Effective October 1, 2019)** A facility may disclose confidential information to an attorney who represents either the facility or an employee of the facility, if such information is relevant to litigation, to the operations of the facility, or to the provision of services by the facility. An employee may discuss confidential information with the employee's attorney or with an attorney representing the facility in which the employee is employed.

(h) A facility shall disclose confidential information for purposes of complying with Article 3 of Chapter 7B of the General Statutes and Article 6 of Chapter 108A of the General Statutes, or as required by other State or federal law.

(i) G.S. 132-1.4 shall apply to the records of criminal investigations conducted by any law enforcement unit of a State facility, and information described in G.S. 132-1.4(c) that is collected by the State facility law enforcement unit shall be public records within the meaning of G.S. 132-1.

(j) Notwithstanding any other provision of this Chapter, the Secretary may inform any person of any incident or event involving the welfare of a client or former client when the Secretary determines that the release of the information is essential to maintaining the integrity of the Department. However, the release shall not include information that identifies the client directly, or information for which disclosure is prohibited by State or federal law or requirements, or information for which, in the Secretary's judgment, by reference to publicly known or available information, there is a reasonable basis to believe the client will be identified. (1955, c. 887, s. 12; 1963, c. 1166, s. 10; 1973, c. 47, s. 2; c. 476, s. 133; c. 673, s. 5; c. 1408, s. 2; 1977, c. 696, s. 1; 1979, c. 147; c. 915, s. 20; 1983, c. 383, s. 10; c. 491; c. 638, s. 22; c. 864, s. 4; 1985, c. 589, s. 2; 1987, c. 638, ss. 1, 3.1; 1989, c. 141, s. 9; 1993, c. 516, s. 12; 1998-202, s. 13(dd); 2003-313, s. 2; 2008-210, s. 1; 2009-299, s. 6; 2013-18, s. 7; 2013-369, ss. 7, 8; 2015-195, ss. 11(a), (e); 2018-33, s. 4.)